

House BILL NO. 336

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INTRODUCED BY JOHN BOHLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF TRANSPORTATION TO NEGOTIATE AGREEMENTS WITH SOFT DRINK BOTTLERS TO INSTALL VENDING MACHINES AT ESTABLISHED REST AREAS; AND PROVIDING FOR THE DISPOSITION OF PROCEEDS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Bottler -- definition.** As used in [section 2] and this section, the following definitions apply:

(1) "Bottler" means a person who imports soft drinks or who manufactures soft drinks by mixing, blending, or diluting syrup or concentrate with carbonated water or other liquids into soft drinks for sale or distribution for human consumption in Montana.

(2) "Soft drink" means a nonalcoholic beverage that is imported or manufactured by a bottler as provided in subsection (1) and that is sold or distributed for human consumption in Montana.

NEW SECTION. **Section 2. Vending machines at rest areas -- agreement -- distribution of proceeds.**

(1) The department may enter into agreements with bottlers for the purposes of placing vending machines at established rest areas.

(2) The agreements must provide:

(a) that the bottler shall pay all costs associated with the purchase and installation of the vending machines;

(b) that the bottler is responsible for maintenance, inventory, payment for electricity to operate the machines, collection of money in the machines, and replacement of the machines if they are damaged or destroyed by vandalism or other causes; and

(c) an accounting procedure and a determination of the percentage of proceeds that will be retained by the bottler. Proceeds that are not retained by the bottler must be divided equally among the state of Montana and organizations, such as the Montana olympic committee, the big sky state games, or other related organizations, to be determined in the agreement.



HB 336
INTRODUCED BILL

1 (3) The department shall:

2 (a) collect from the bottler the percentage of the vending machine proceeds agreed to be remitted
3 to the state as provided in subsection (2)(c);

4 (b) deduct any costs associated with negotiating and executing the agreements with the bottlers;
5 and

6 (c) submit the remaining funds to the state treasurer for deposit in the state general fund.
7

8 **NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified
9 as an integral part of Title 60, chapter 2, part 2, and the provisions of Title 60, chapter 2, part 2, apply to
10 [sections 1 and 2].

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0336, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill allowing the Montana Department of Transportation (MDT) to negotiate agreements with soft drink bottlers to install vending machines at established rest areas, and providing for the disposition of proceeds.

ASSUMPTIONS:

1. Vending machines will be required to be sited in a separate vandal protected enclosure that meets ADA requirements. Any cost associated with the placement or operation of vending machines will be borne by the contracting vendor and will not be the responsibility of the MDT. Vendor costs would include a secured enclosure, walkways, and power access; approximately \$7,500 per site.
2. All rest area vending operations will be in compliance with Federal Register Code 752.5 and MCA Title 18 Chapter 4.
4. The MDT does not have information regarding the level of interest in placing vending machines at rest areas. The MDT would set rates to recover additional costs including electricity, litter and garbage, etc.

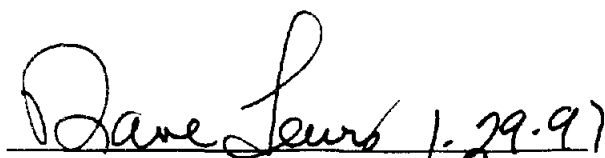
FISCAL IMPACT:

It is assumed that in the 1999 biennium, most net revenues would be used to offset the costs of initial construction and placement. Thereafter, since revenues must be shared with designated charitable organizations, it is anticipated that the general fund would see minimal revenue impact.

TECHNICAL NOTES:

The permitting of vending machines, at rest areas, will require compliance with Federal Register Code 752.5. HB 336 specifically limits the MDT to agreements with "bottlers". FRC 752.5(c) requires the state to operate vending machines directly or the state may contract for vending machines, and the state must give priority to vending machines which are operated through the state licensing agency pursuant to section 2(a)(5) of the Randolph-Sheppard Act, U.S.C. 107(a)(5). Title 18, Chapter 5, MCA, addresses vending facilities and Montana's Randolph-Sheppard compliance.

MCA 60-5-110 will have to be amended to allow vending machines. MCA 60-5-110 does not allow commercial enterprises or structures on publicly owned rights-of-way or a controlled-access highway or facility or on any publicly leased land used in connection therewith.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOHN BOHLINGER, PRIMARY SPONSOR DATE

Fiscal Note for HB0336, as introduced

HB 336